

## SENATE BILL No. 524

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1; IC 36-7.

**Synopsis:** Tax sales and redevelopment. Allows counties and municipalities to adopt additional qualifications and conditions for tax sales, including requirements for: (1) prequalification of bidders; (2) minimum bid requirements; and (3) the combination of properties into bid packages that will be sold together. Provides that the purchaser of a certificate of sale at a tax sale may enter the property at a reasonable time to: (1) inspect the property; (2) perform reasonable repairs or rehabilitation on the property; and (3) perform any act necessary to abate a public nuisance. Provides that the expenditures made by the purchaser in taking these actions are included in the cost of redeeming the property. Allows the designation of an alternate purchaser to whom the certificate of sale shall be sold if the highest bidder fails to pay the bid. Provides that certain costs of enforcing the unsafe building law for a particular property become a lien on the property of an officer, a manager, or a director of the property owner or a shareholder, a partner, a member, or another person owning more than a 10% interest in the property owner. Provides that in certain eminent domain proceedings initiated by a redevelopment commission, the determination of the fair market value of the property must take into account certain costs and factors.

**Effective:** July 1, 2005.

**Wyss, Broden**

January 20, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

C  
o  
p  
y



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 524

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-24-5.4 IS ADDED TO THE INDIANA  
2       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3       [EFFECTIVE JULY 1, 2005]: **Sec. 5.4. (a) This section applies to the**  
4       **following:**

5               (1) **The city-county council, for property located in a county**  
6               **containing a consolidated city.**

7               (2) **Except as provided in subdivision (1), a municipal**  
8               **legislative body, for property located in the municipality.**

9               (3) **Except as provided in subdivision (1), a county legislative**  
10              **body, for property located in the county that is not located in**  
11              **a municipality.**

12       (b) **An entity described in subsection (a) may establish**  
13       **qualifications and conditions for the sale of tracts or real property**  
14       **under this chapter, including requirements related to the**  
15       **following:**

16              (1) **Prequalification of bidders under this chapter.**

17              (2) **Minimum bid requirements, including minimum bid**



C  
o  
p  
y

requirements that exceed the minimum sale price otherwise required under section 5 of this chapter.

**(3) The combination or pooling of tracts or real property into bid packages that will be sold under this chapter only if all the tracts or real property are sold together to one (1) purchaser. This condition may be imposed regardless of whether the tracts or real property that are combined or pooled into a bid package are owned by the same person.**

**(c) Except as provided in this section, the qualifications and conditions established under subsection (b) may not conflict with the express provisions of this chapter.**

SECTION 2. IC 6-1.1-24-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The county commissioners may:

(1) by resolution, identify properties:

(A) that are described in section 6.7(a) of this chapter; and

(B) concerning which the county commissioners desire to offer to the public the certificates of sale acquired by the county under section 6 of this chapter;

(2) publish notice in accordance with IC 5-3-1 of the date, time, and place for a public sale of the certificates of sale that is not earlier than ninety (90) days after the last date the notice is published; and

(3) sell each certificate of sale covered by the resolution for a price that:

(A) is less than the minimum sale price prescribed by section 5(e) of this chapter; and

(B) includes any costs to the county directly attributable to the sale of the certificate of sale.

(b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:

(1) include a description of the property by parcel number and common address;

(2) specify that the county commissioners will accept bids for the certificates of sale for the price referred to in subsection (a)(3);

(3) specify the minimum bid for each parcel;

(4) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:

(A) the amount of the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale;

C  
o  
p  
y



(B) ten percent (10%) of the amount for which the certificate is sold;

(C) the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;

(D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property; ~~and~~

(E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; **and**

**(F) the costs of expenditures made by the purchaser in taking any action under section 9(d) of this chapter; and**

(5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 3. IC 6-1.1-24-6.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.3. (a) The sale of certificates of sale under this chapter must be held at the time and place stated in the notice of sale.

(b) A certificate of sale may not be sold under this chapter if the following are paid before the time of sale:

(1) All the delinquent taxes, penalties, and special assessments on the tract or an item of real property.

(2) The amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale.

(c) The county commissioners shall sell the certificate of sale, subject to the right of redemption, to the highest bidder at public auction. **The county commissioners may designate the bidder who submitted the next highest bid as the alternate purchaser. The certificate of sale shall be sold to the alternate purchaser, subject to the right of redemption, if the highest bidder fails to pay the bid.**

(d) The county auditor shall serve as the clerk of the sale.

SECTION 4. IC 6-1.1-24-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) When one who purchases real property at a tax sale fails to pay the bid, the real property:

(1) shall again be offered for sale; **or**

(2) **shall be sold to the alternate purchaser designated under**

C  
o  
p  
y



**section 6.3(c) of this chapter.**

(b) A purchaser who fails to pay the bid shall pay a penalty of twenty-five percent (25%) of the amount of the bid. The county prosecuting attorney shall initiate an action in the name of the ~~state~~ treasurer **of state** to recover the penalty. Amounts collected under this section shall be deposited in the common school fund of this state.

SECTION 5. IC 6-1.1-24-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Immediately after a tax sale purchaser pays the bid, as evidenced by the receipt of the county treasurer, or immediately after the county acquires a lien under section 6 of this chapter, the county auditor shall deliver a certificate of sale to the purchaser or to the county or to the city. The certificate shall be signed by the auditor and registered in the auditor's office. The certificate shall contain:

- (1) a description of real property that corresponds to the description used on the notice of sale;
- (2) the name of:
  - (A) the owner of record at the time of the sale of real property with a single owner; or
  - (B) at least one (1) of the owners of real property with multiple owners;
- (3) the mailing address of the owner of the real property sold as indicated in the records of the county auditor;
- (4) the name of the purchaser;
- (5) the date of sale;
- (6) the amount for which the real property was sold;
- (7) the amount of the minimum bid for which the tract or real property was offered at the time of sale as required by section 5 of this chapter;
- (8) the date when the period of redemption specified in IC 6-1.1-25-4 will expire;
- (9) the court cause number under which judgment was obtained; and
- (10) the street address, if any, or common description of the real property.

(b) When a certificate of sale is issued under this section, the purchaser acquires a lien against the real property for the entire amount paid. The lien of the purchaser is superior to all liens against the real property which exist at the time the certificate is issued.

(c) A certificate of sale is assignable. However, an assignment is not valid unless it is endorsed on the certificate of sale, acknowledged before an officer authorized to take acknowledgments of deeds, and

**C  
o  
p  
y**



1 registered in the office of the county auditor. When a certificate of sale  
 2 is assigned, the assignee acquires the same rights and obligations that  
 3 the original purchaser acquired.

4 **(d) After a certificate of sale is issued to a purchaser under this**  
 5 **section, the purchaser may enter the property at a reasonable time**  
 6 **to do any of the following:**

7 **(1) Inspect the property.**

8 **(2) Subject to the prior approval of the county auditor,**  
 9 **perform reasonable repairs, restoration, rehabilitation,**  
 10 **remodeling, or improvement of any building or structure on**  
 11 **the property.**

12 **(3) Perform any act necessary to abate a public nuisance.**

13 **(e) If a purchaser enters the property under subsection (d) or**  
 14 **takes any action under subsection (d), the purchaser must provide**  
 15 **notice to the owner of record listed on the certificate of sale under**  
 16 **subsection (a)(2) and to the county auditor. The notice must**  
 17 **include an itemized list of expenditures made by the purchaser in**  
 18 **taking an action under subsection (d).**

19 SECTION 6. IC 6-1.1-25-2 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The total amount  
 21 of money required for the redemption of real property equals:

22 (1) the sum of the amounts prescribed in subsections (b) through  
 23 (e); or

24 (2) the amount prescribed in subsection (f);

25 reduced by any amounts held in the name of the taxpayer or the  
 26 purchaser in the tax sale surplus fund.

27 (b) Except as provided in subsection (f), the total amount required  
 28 for redemption includes:

29 (1) one hundred ten percent (110%) of the minimum bid for  
 30 which the tract or real property was offered at the time of sale, as  
 31 required by IC 6-1.1-24-5, if the tract or item of real property is  
 32 redeemed not more than six (6) months after the date of sale; or

33 (2) one hundred fifteen percent (115%) of the minimum bid for  
 34 which the tract or real property was offered at the time of sale, as  
 35 required by IC 6-1.1-24-5, if the tract or item of real property is  
 36 redeemed more than six (6) months but not more than one (1)  
 37 year after the date of sale.

38 (c) Except as provided in subsection (f), in addition to the amount  
 39 required under subsection (b), the total amount required for redemption  
 40 includes the amount by which the purchase price exceeds the minimum  
 41 bid on the real property plus ten percent (10%) per annum on the  
 42 amount by which the purchase price exceeds the minimum bid on the

C  
o  
p  
y



property.

(d) Except as provided in subsection (f), in addition to the amount required under subsections (b) and (c), the total amount required for redemption includes all taxes and special assessments upon the property paid by the purchaser after the sale plus ten percent (10%) interest per annum on those taxes and special assessments.

(e) Except as provided in subsection (f), in addition to the amounts required under subsections (b), (c), and (d), the total amount required for redemption includes the following costs, if certified before redemption by the payor to the county auditor on a form prescribed by the state board of accounts, that were incurred and paid by the purchaser, the purchaser's assignee, or the county, before redemption:

(1) The attorney's fees and costs of giving notice under section 4.5 of this chapter.

(2) The costs of a title search or of examining and updating the abstract of title for the tract or item of real property.

**(3) The costs of expenditures made by the purchaser in taking any action under IC 6-1.1-24-9(d).**

(f) With respect to a tract or item of real property redeemed under section 4(c) of this chapter, instead of the amounts stated in subsections (b) through (e), the total amount required for redemption is the amount determined under IC 6-1.1-24-6.1(b)(4).

SECTION 7. IC 36-7-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after the completion of the work, the enforcement authority does not act under section 13.5 of this chapter, and the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) the name and last known address of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;

(2) the legal description or address of the unsafe premises that were the subject of work;

(3) the nature of the work that was accomplished;

(4) the amount of the unpaid bid price of the work that was accomplished; and

(5) the amount of the unpaid average processing expense.

C  
o  
p  
y



The record must be in a form approved by the state board of accounts.

(b) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent to the persons named in the record, in the manner prescribed by section 25 of this chapter.

(c) If, within thirty (30) days after the notice required by subsection (b), a person named in the record files with the clerk of the circuit court a written petition objecting to the claim for payment and requesting a hearing, the clerk shall enter the cause on the docket of the circuit or superior court as a civil action, and a hearing shall be held on the question in the manner prescribed by IC 4-21.5. However, issues that could have been determined under section 8 of this chapter may not be entertained at the hearing. At the conclusion of the hearing, the court shall either sustain the petition or enter a judgment against the persons named in the record for the amounts recorded or for modified amounts.

(d) If no petition is filed under subsection (c), the clerk of the circuit court shall enter the cause on the docket of the court, and the court shall enter a judgment for the amounts stated in the record.

(e) A judgment under subsection (c) or (d), to the extent that it is not satisfied under IC 27-2-15, is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the **following**:

**(1) The persons named.**

**(2) An officer, manager, or director of the persons named.**

**(3) A shareholder, partner, member, or other person that owns more than a ten percent (10%) interest in the persons named.**

**(f)** The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

~~(f)~~ **(g)** Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

SECTION 8. IC 36-7-14-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) If the redevelopment commission considers it necessary to acquire real property in a blighted area by the exercise of the power of eminent domain, ~~they~~ **the commission** shall adopt a resolution setting out ~~their~~ **its** determination to exercise that power and directing ~~their~~ **its** attorney

C  
o  
p  
y





to file a petition in the name of the unit on behalf of the department of redevelopment, in the circuit or superior court of the county in which the property is situated.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section, but property belonging to the state or any political subdivision may not be acquired without its consent. **The appraisal under IC 32-24 of real property that the commission seeks to acquire under this section and the determination under IC 32-24 of the real property's fair market value must take into account the following:**

(1) **The cost of any fees, permits, investigations, legal expenses, marketing expenses, demolition, or construction related to the repair, restoration, rehabilitation, remodeling, or improvement of the real property.**

(2) **Specific conditions of the neighborhood in which the property is located.**

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the unit for the use and benefit of its department of redevelopment.

SECTION 9. IC 36-7-14-32.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the real property has all of the following characteristics:

(1) The real property is an unsafe building (as defined in IC 36-7-9-4) and is subject to an order issued under IC 36-7-9-5.

(2) The owner of the real property has not complied with the order issued under IC 36-7-9-5.

(3) The real property is not being used as a residence or for a business enterprise.

(4) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(5) The unsafe condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or the commission's designated hearing examiner shall conduct a public meeting to determine whether a parcel

C  
o  
p  
y



of real property has the characteristics set forth in subsection (a). Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, the commission shall adopt a resolution setting out the commission's determination to exercise that power and directing the commission's attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court with jurisdiction in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24. **The appraisal under IC 32-24 of real property that the commission seeks to acquire under this section and the determination under IC 32-24 of the real property's fair market value must take into account the following:**

**(1) The cost of any fees, permits, investigations, legal expenses, marketing expenses, demolition, or construction related to the repair, restoration, rehabilitation, remodeling, or improvement of the real property.**

**(2) Specific conditions of the neighborhood in which the property is located.**

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation with a condition in the granting clause of the deed requiring the nonprofit development corporation to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the unit's median income for families.

(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the unit's median income for families.

(f) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

C  
o  
p  
y



SECTION 10. IC 36-7-15.1-22.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

(1) The real property is an unsafe premises (as defined in IC 36-7-9) and is subject to an order issued under IC 36-7-9 or a notice of violation issued by the county's health and hospital corporation under its powers under IC 16-22-8.

(2) The real property is not being used as a residence or for a business enterprise.

(3) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(4) The blighted condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) **Except as provided in subsection (h),** eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the

C  
o  
p  
y



1 county's median income for families. However, a nonprofit  
 2 organization is eligible for a sale or grant under this subdivision  
 3 only if the county fiscal body has determined that the nonprofit  
 4 organization meets the criteria established under subsection (f).

5 (4) Any other purpose appropriate under this chapter so long as  
 6 it will serve or benefit families whose income is at or below the  
 7 county's median income for families.

8 (f) The county fiscal body shall establish criteria for determining the  
 9 eligibility of neighborhood development corporations and other  
 10 nonprofit corporations for sales and grants of real property under  
 11 subsection (e)(3). A neighborhood development corporation or other  
 12 nonprofit corporation may apply to the county fiscal body for a  
 13 determination concerning the corporation's compliance with the criteria  
 14 established under this subsection.

15 (g) A neighborhood development corporation or nonprofit  
 16 corporation that receives property under this section must agree to  
 17 rehabilitate or otherwise develop the property in a manner that is  
 18 similar to and consistent with the use of the other properties in the area  
 19 served by the corporation.

20 **(h) The appraisal under IC 32-24 of real property that the**  
 21 **commission seeks to acquire under this section and the**  
 22 **determination under IC 32-24 of the real property's fair market**  
 23 **value must take into account the following:**

24 (1) The cost of any fees, permits, investigations, legal  
 25 expenses, marketing expenses, demolition, or construction  
 26 related to the repair, restoration, rehabilitation, remodeling,  
 27 or improvement of the real property.

28 (2) Specific conditions of the neighborhood in which the  
 29 property is located.

C  
o  
p  
y

